nopoly." It may be implied in the general purpose of the Trade Commission Law, prohibiting "unfair methods of competition," for the law was designed to strike at practices which were injurious to the public, and not to merely private wrongs. This is indicated by the provision that the Commission shall institute proceedings only where it is "in the interests of the public." (2) The administrative provisions of the laws are not designed to make the Commission a judicial tribunal, but to give it merely administrative functions; and the provision authorizing review of its proceedings by the Circuit Court of Appeals does not devolve on that body appellate jurisdiction, but gives it original jurisdiction over the controversy, the Commission being the complainant. These two theses are clearly developed and forcibly maintained.

G. C. HENDERSON.

CASES ON THE LAW OF PUBLIC SERVICE. By C. K. Burdick. Boston: Little, Brown & Company. 1916. pp. xiii, 544.

The present-day law school case book marks a reversion to type. Its original prototype was compiled solely as a shop tool for the law school. Then followed a generation of case books approximating treatises in their scope and elaborateness of detail. Such works as Gray's Cases on Property, Ames's Cases on Bills and Notes, and Thayer's Cases on Evidence are much more than mere skeletons upon which to hang law courses. In the present generation, however, the case book has again become the mere superstructure for the course. As a consequence, it has become the fashion for every law instructor who has reached the age of pedagogical puberty to compile his own case book adapted to the purposes of his own course. The result is regrettable although perhaps inevitable. For the practitioner, who in these busy days must have his law predigested, the case book is useless. To the student the substantial, thoroughgoing volumes of Gray and Ames represent too great a capital outlay too soon "scrapped." Moreover, the idea that case books must be kept abreast of the rising tide of judicial decisions and the shifting sands of the curriculum has also tended to destroy the incentive to more permanent works. Yet, strangely enough, Ames's Cases on Bills and Notes, Ames's Cases on Partnership, and Thayer's Cases on Evidence have seen service in the Harvard Law School for thirty-five, twenty-nine, and sixteen years respectively without substantial revision, and their age has not seriously impaired their usefulness. While the old saw about leading horses to water still holds good, it is also true that many a man will eat what is put before him when he would never think of asking for it. May it not be a false economy to cut the cloth to fit the course too closely? Might it not be worth while, by furnishing him with a case book which will serve as a full historical guide to its particular field of law rather than as mere analytical outline, to tempt the student to stray from the narrow alleys of the classroom into the more secluded and less traveled lanes of the law? There are those who still believe it is worth while: witness Wigmore's Cases on Torts.

Doubtless the law of public utilities, or public service, as Professor Burdick calls it, is in need of less historical elaboration than some other branches of the law, but one cannot conceive of its development being adequately traced in a selection of cases compressed within less than five hundred pages. An inspection of the index of Professor Burdick's new case book, which, by the way, like most case-book indexes, is entirely inadequate, reveals the secret. The liability of the public utility for injuries to the person or property of its patron in the course of the undertaking is entirely omitted, probably because the subject is regarded as adequately treated in the course on Torts. This stamps the book as of the present generation of case books (better, perhaps, "course

books"), and it is only fair to test it by the standard of such books. So regarded, it seems to be a carefully and conveniently arranged selection of cases, adequately annotated and up-to-date. The arrangement is not greatly different from that usually pursued in courses on the subject. The first 86 pages are devoted to the bases of public-service duties, the next 130 pages to the obligations to render service and the right to make rules for such service. Then follow nearly 200 pages of cases on rates and discrimination. Finally there are nearly 100 pages of cases on the duty to furnish adequate facilities and the right to withdraw from the service. The book also contains the texts of the Act to Regulate Commerce and the Elkins Act. As the working basis for a course on public utilities the book fulfills its purpose well enough.

C. A. McLAIN.

VICARIOUS LIABILITY. By T. Baty. Oxford: Clarendon Press. 1916. pp. 244.

The subtitle describes this book as "a short history of the liability of employers, principals, partners, associations, and trade union members, with a chapter on the laws of Scotland and foreign states." Obviously the bringing together of these diverse but allied topics is well worth while. The book is indeed an interesting one. Its interest is not diminished by its being not written, it would seem, from the merely historical point of view, but rather with a disputatious purpose. The preface frankly indicates the character of the book by saying: "The present-day discussion of the question of the liability of Trade Unions is hampered by the constant and unwarranted implication that liability on the part of principals for the wrongful acts of those who are employed by them is a sort of natural law. . . . The society member's asserted liability is only an illogical inference from that of shareholders; the shareholder's liability is only a variety of the liability of the partner; the partner's liability is only *qua* principal, and began in 1833; the principal's liability is only *qua* master; and the master's liability is based on a tissue of misapprehensions and began in 1692." This polemical flavor persists throughout the book and with honesty puts the reader on his guard for unconscious excesses of emphasis. The author's enthusiasm for making out his case brings results which, though perhaps misleading for beginners, in no way injure a reader of experience. Thus he complains that in *Jones* v. *Hart*, 2 Salk. 441, 1 Ld. Raym. 738, Holt 642, Holt, C. J., by way of *dictum* "clearly lays down the modern principle, which thus rests on the precarious foundation of an *obiter dictum* in a *nisi prius* case"; and this may sound serious enough to the beginner, who may think that the proper metaphor for law is a building upon a foundation, whereas in truth a more useful metaphor is a stream — a river — not to be spoken of disrespectfully because it began in a small spring. Again, Y. B. Trin. 44 Edw. III 20, pl. 16, is cited by the author as proving that "the taking of unlawful toll at a mill by a servant could not prejudice the master"; whereas the action was brought not against the master but against the servant, and the servant defended himself under the master's right to take toll, and the statement by Thorpe, C. J., that an action would not lie against the master was undoubtedly a *dictum*, whether right or wrong. Still again, *Bush* v. *Steinman*, 1 B. & P. 404, certainly a grotesque distortion of *respondeat superior*, is discussed without any indication that it was distinctly discredited by *Reedie* v. *London & Northwestern Railway Co.*, 4 Exch. 244. Finally, it is certainly a misfortune that such an interesting work should have as its basic conception the doctrine that law either should never have grown at all, or at least should have ceased to grow in or before 1692. Yet all these comments, and more, should not tend to conceal the fact that here is a book of great interest